

IC 8-23-6

Chapter 6. State Highways in Municipalities

IC 8-23-6-1

Selection of routes; maintenance; construction of drainage structures

Sec. 1. (a) The department shall select the route of highways in the system of highways under its control through cities and towns, and may change the routes as the department determines most convenient for public travel.

(b) Notwithstanding subsection (a) and in or near the city of Mishawaka, Indiana, the portion of Capital Avenue lying between:

(1) the most recently established US 20 bypass as of January 1, 1997; and

(2) the Indiana toll road;

is designated state route number three hundred thirty-one (331).

(c) The department, to the extent of the funds available for the purpose, shall maintain and, as it determines necessary and as the funds required are available, may construct and improve the roadway of the streets or a part of the streets to the width determined by the department. As part of the construction work, the department shall construct within the limits of a street the curbs and gutters, manholes, catch basins, and the necessary drainage structures and facilities.

(d) Notwithstanding subsection (c), funds for the construction or improvement of the road designated as state route three hundred thirty-one (331) under subsection (b), to the extent funds are available for the construction or improvement, shall first be exhausted from:

(1) revenue declared excess by the Indiana toll road;

(2) federal aid designated for the local metropolitan planning organization;

(3) city and county highway funds used for such purpose; and

(4) revenue generated from local incremental finance districts; before any funds designated to the department are used for construction or improvement of state route three hundred thirty-one (331).

As added by P.L.18-1990, SEC.215. Amended by P.L.89-1997, SEC.2.

IC 8-23-6-2

Construction of outside drainage facilities and sidewalks

Sec. 2. If the construction of a street necessitates the construction of adequate connecting facilities outside the limits of the street to provide for drainage of the street, the necessary mains, laterals, and connections shall be provided for in the plans, included as part of the construction cost, and paid out of the department's appropriation. However, if the drainage facilities outside the street are to be used for a purpose or purposes in addition to that of draining the street, a proportionate share of the cost of construction shall be paid by the beneficiaries of the drainage other than the department in a ratio of

the amount of waste water attributable to the other users as compared with the total capacity of the drainage facilities. The department shall determine the ratio. The department need not proceed with construction until the time that an agreement with the municipality has been effected concerning the payment of costs for drainage use other than that which is required for state highway drainage. If the construction of a street in the state highway system within the boundaries of a city or town necessitates the construction of a bridge, overhead or subway structure, and sidewalks are required as a part of the structure, the sidewalks shall be provided for in the plans, included as part of the construction cost, and paid out of the department's funds.

As added by P.L.18-1990, SEC.215.

IC 8-23-6-3

Construction and maintenance of streets surrounding railway tracks, pipes and conduits, drainage facilities, and sidewalks; regulation of traffic

Sec. 3. (a) Whenever a street on the state highway system is located within the boundaries of a city or town and is occupied by the track or tracks of a street railway, interurban railway, or steam railroad, the department is not required to maintain, construct, or improve the part of the street between the track or tracks and for eighteen (18) inches on the outside of the outer rails. The department shall include as part of the construction cost and pay out of department funds any expenditures necessitated by the acquisition of sufficient rights-of-way to construct the street.

(b) If there are any tracks, pipes, or conduits in a street, the department may, after determining to construct or improve the street, require the owner to restore to good condition or renew the tracks, pipes, or conduits. The owner, within ninety (90) days after being notified to do so, shall restore or renew the tracks, pipes, or conduits. For tracks, the owner shall pave the part of the street between the rails of the tracks and eighteen (18) inches on the outside in conformity with plans approved by the department.

(c) If the construction work on tracks, pipes, or conduits involves work of a nature as to be impractical or impossible of performance as a separate unit, the department may by agreement with the owner perform the work for which the owner shall reimburse the department for the cost.

(d) Upon the completion of a street, the department shall maintain the roadway of the street, including the curbs and gutters, catch basins, and inlets within the limits of the street or highway that form integral parts of the street or highway. The city or town shall maintain the sidewalks, grass plats, and the connecting drainage facilities.

(e) Whenever the department has responsibility for maintenance of a street within a city or town, the department shall regulate traffic in accordance with IC 9-21 on the street and may remove any hazard to traffic.

As added by P.L.18-1990, SEC.215. Amended by P.L.2-1991, SEC.64.

IC 8-23-6-4

Business routes; improvement and maintenance

Sec. 4. Whenever:

- (1) the department designates a business route or a special route as an alternate to a state highway;
- (2) the route is laid out through a city or town; and
- (3) no other state highway is routed over the business or alternate route;

the city or town is responsible for any improvements to or maintenance of the street.

As added by P.L.18-1990, SEC.215.

IC 8-23-6-5

Construction, improvement, and maintenance by municipalities

Sec. 5. This chapter does not annul, limit, or abridge the right of a city or town, either at its own expense or at the expense of property owners subject to assessment, to improve the sidewalks and curbs along a street forming the route of a state highway, to construct sewers and drains, or to construct or maintain a part of the roadway of the street not improved or maintained by the department. The city or town shall provide adequate drainage for the street except as otherwise provided in this chapter. Except as expressly provided in this chapter and subject to IC 9-21, this chapter does not limit the right of a city or town to regulate traffic over a street over which a highway is routed or to relieve the city or town of liability now imposed by law. The cost of improvement, except as otherwise provided in this chapter, shall be paid for out of the funds appropriated to the department. Whenever a person, firm, limited liability company, or corporation, other than a municipal corporation, is required or obligated by a law, ordinance, or contract to keep in repair or to maintain or to construct a street, any part of a street, or any railroad, interurban railroad, or street railroad crossing, or any structure or bridge thereon, this chapter does not relieve the person, firm, limited liability company, or corporation or the receiver thereof from the duty, obligation, or contract.

As added by P.L.18-1990, SEC.215. Amended by P.L.2-1991, SEC.65; P.L.8-1993, SEC.153.

IC 8-23-6-6

Excavations, obstructions, and utility work; restrictions; violations

Sec. 6. (a) An opening may not be made in:

- (1) a highway in the state highway system;
- (2) the right-of-way of a state highway; or
- (3) the roadway of a street of a city or town over which a state highway is routed and which the department is required to maintain;

and a structure or obstruction may not be placed in a highway or

roadway of a state highway without the consent of the department. A highway or roadway may not be dug up for laying or placing a pipe, sewer, pole, wire, conduit, track, or railway or for any other purpose, and trees may not be removed from the right-of-way of a state highway without the written permit of the department, and then only in accordance with the rules of the department. The work shall be done under the supervision and to the satisfaction of the department, and the entire expense of restoring the highway or street in as good condition as before shall be paid by the person to whom the permit is given.

(b) The department may require, before the granting of a permit, that a sufficient bond be given, or cash deposit made, to insure the restoration of the highway or street. In granting a permit, the department may designate the place in the street, highway, or right-of-way thereof where the pipe, sewer, pole, wire, conduit, track, railway, or other device or thing may be constructed.

(c) A person who violates this section commits a Class C infraction.

As added by P.L.18-1990, SEC.215.